IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION NO. 197 (SS) OF 2003

Smt. Sulochana Devi, W/o late Sri Vibhash Chand,
R/o Village Kargi, P.O. Banjarawala, Dehradun.

.....Petitioner.

Versus

1. Garrison Engineer Clement Town, Dehradun.
2. Chief Engineer (IC2) H.Q. Central Command Lucknow.
3. Chief Engineer, Head Quarter Bareilly, Zone Sarvatra Bhawan, Station Road, Bareilly Cantt.
4. Commander Works Engineer (Hills), Mall Road, Dehradun, Cantt.
5. Union of India, through Defence Secretary, New Delhi.

.....Respondents.

Mr. M.C.Pant, Advocate for the petitioner.
Mrs. A. Bhragava, learned Standing Counsel for the State.

Dated:03.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the impugned order dated 28.06.2002 and 10.07.2002 and also letter no. 344 of 24-7-02 and 31-08-02 as contained to Annexures P1 and P4 to the writ petition and their effect and operation also. Further the petitioner has prayed for a writ of mandamus commanding the respondents to allow the petitioner to continue in service as Majdoor in pursuance of the appointment letter dated 10.06.2002 and to allow her work upto her superannuation and pay her salary and other consequential benefits.

2. Brief facts giving rise to the present writ petition according to the petitioner are that the petitioner was appointed against a substantive and permanent post of Majdoor under the U.P. Recruitment of Dependant of Government Servants Dying in Harness Rules, 1974. The husband of the petitioner died on 27.11.1996 in harness and at the time of his death the petitioner was having two daughters and one son.

3. On 10th June 2002, the appointment was given to the petitioner as Majdoor, which was duly consented vide order dated 30.05.2002 of respondent no.3.

4. In compliance of the aforesaid order, the petitioner submitted her joining report and joined her duties. In this regard the respondent no. 1 issued an internal duty order dated 12.06.2002.

5. However, vide order-dated 28.06.2002, the service of the petitioner was terminated and the same order was confirmed on 10.07.2002. The petitioner approached to this Court and operation of the order-dated 28.06.2002 and 10.07.2002 was stayed by order –dated 23.09.2003 by this Court.

6. The sole contention of the petitioner is that the appointment under Dying in Harness Rules cannot subsequently be reflected being a regular appointment and not a temporary appointment.

7. Since, there was already a stay order, the order dated 28.06.2002 and 10.07.2002 contained as Annexures P1-and P2 to the writ petition are quashed.

8. The matter is sent back to the authorities concerned, who shall consider afresh the case of the petitioner and if there is any cause to terminate the service of the petitioner, the same shall be done in accordance with law.

9. Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

03.03.2006
Rathour

HIGH COURT OF UTTARAKHAND AT NAINITAL

REVIEW APPLICATION NO. 132 OF 2007

IN

WRIT PETITION NO. 197 (SS) OF 2003

Smt. Sulochana Devi
W/o late Sri Vibhash Chand
R/o Village Kargi, P.O. Banjarwala
Dehradun

.....Petitioner

Vs.

1. Garrison Engineer Clement Town, Dehradun
2. Chief Engineer (IC2)
   H.Q. Central Command Lucknow
3. Chief Engineer, Head Quarter Bareilly,
   Zone Sarvatra Bhawan, Station Road
   Bareilly Cantt.
4. Commander Works Engineer (Hills)
   Mall Road, Dehradun Cantt.
5. Union of India, through Defence Secretary, New Delhi

.....Respondents

27.9.2007

Hon'ble Rajesh Tandon, J.

Heard Shri Mohan Singh Bisht holding the brief of Ashok Agarwal, counsel for the review applicant.

2. Present review application has been filed for review of the order dated 3.3.2006. I have already sent back the matter to the authorities concerned for considering afresh

in accordance with the scheme framed by the respondents. The authorities concerned shall pass the order in accordance with law. Any observation made in the order dated 3.3.2006 shall not come in the way of the authority concerned in considering the matter afresh in accordance with law.

3. Subject to the aforesaid, review application is dismissed.

(Rajesh Tandon, J.)

26.09.2007
avneet